IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 21ST AUGUST 2007 / 30TH SRAVANA 1929

WP(C).No. 16741 of 2007(R)

PETITIONER:

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1. NOUSHAD.A., SHOP NO.MC-138/17,
   BIG BAZAR,KOLLAM.

2. KAMALUDEEN, SHOP NOS.MC-155/17.
   BIG BAZAR, KOLLAM-1.

3. K.MUHAMMED KUNJU, MC-154/17,
   BIG BAZAR, KOLLAM-1.

4. ABDUL MAJEED, SHOP NO.MC-153/17,
   BIG BAZAR, KOLLAM-1.

BY ADV. SRI.B.KRISHNA MANI

RESPONDENTS:

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1. THE DISTRICT COLLECTOR,
   KOLLAM.

2. THE ADDITIONAL TAHSILDAR, KOLLAM.

BY GOVERNMENT PLEADER SRI. I.V. PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

W.P.(C)NO.16741 OF 2007

DATED THIS THE 21st DAY OF AUGUST, 2007

JUDGMENT

The petitioners challenge Exts.P4,P6,P9 and P11 directing them to vacate the properties mentioned therein within twenty four hours. The petitioners submit that no measurement has been conducted to decide unauhtorised occupation and the petitioners were not also afforded an opportunity of being heard.

2. I have heard the learned Government pleader also. The learned Government pleader could not satisfy me that the impugned notices have been preceded by any notice or hearing. The same also do not contain any reason as to why the emergency provisions should be invoked as per the Kerala Land Conservancy Act. That being so, it is clear that the impugned notices have been issued in violation of the principles of natural justice. However, if the impugned notices are treated as show cause notices, the same need not be quashed. Therefore, the writ petition is disposed of with the following directions.

The 2nd respondent shall treat impugned notices as show cause notices. The petitioners shall file their objections to the same within two weeks from today. The 2nd respondent shall afford an opportunity of being heard to the petitioners which shall include the opportunity to

adduce evidence also. Thereafter the 2nd respondent shall pass a speaking order meeting the contentions of the petitioners. The petitioners shall not be evicted from the property in question until the orders passed as above are communicated to the petitioners.

S. SIRI JAGAN, JUDGE

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